

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated August 23, 2005, indicated that the drawings are objected to; claims 1-8, 10, 11 and 18 are rejected under 35 U.S.C. § 102(e) over Atick *et al.* (U.S. Patent No. 6,111,517); claims 9 and 17 are rejected under 35 U.S.C. § 103(a) over Atick *et al.* in view of Yee *et al.* (U.S. Patent No. 6,380,924); and claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/041,756.

With respect to the drawings Applicant has submitted the revised sheet A for FIG. 3A. This revised sheet shows clarification of the noted referenced numerals. Applicant, therefore, requests that the objection to the drawings be withdrawn.

With respect to claims 12-16, the Applicant notes that the statutory basis for the rejection is absent. Accordingly, Applicant requests that the rejections be withdrawn.

With respect to prior art rejections (35 U.S.C. § 102(e)) of claims 1 and 18, Applicant respectfully traverse. Applicant submits that independent claims 1 and 18 are distinguishable from the '517 patent. For example, the '517 patent does not teach the claimed aspects of "automatically detecting . . ." Rather the '517 patent teaches recognition of a face from a prestored set of faces for comparison, or use of the video camera searching for the "presence of a second, unauthorized individual" which would be a person not in the prestored set of faces. Moreover, the claims 1 and 18 as amended detect the presence of an unauthorized person "by sensing one of heat, motion and sound". Applicant submits that the '517 patent is limited to face recognition and has no corresponding teaching.

With respect to prior art rejections (35 U.S.C. § 102(e) and 35 U.S.C. § 103(a)) of claims 10-17, Applicant respectfully traverses the rejections. The claimed invention is limited to "means for automatically detecting a person" and pursuant to § 112(6), Applicant submits that such "means" has nothing to do with searching for recognizable faces in a video camera as in the '517 patent. Moreover, the citation of the '517 patent

has to do with recognition of a face from a prestored set of faces for comparison, or use of the video camera searching for the “presence of a second, unauthorized individual” which would be a person not in the prestored set of faces. Applicant submits that the detection means is supported by the Specification at page 7, line 15, which contemplates the use of “heat, motion, light variations and sound”. Thus, the prior art video camera operation is not in any way equivalent, and is not enabling for the invention set forth in claims 10-17. Therefore, Applicant submits that the claimed invention is patentably distinct from the cited prior art.

With respect to claims 1-9 and claim 18, claim 1 is similarly distinguishable without the interpretation of § 112(6).

With respect to the § 103(a) rejection, Applicant respectfully traverses. The combined teachings do not correspond to the invention of either claim 9 or 17. Claim 9 is dependent from claim 1 and as discussed above, the claimed invention is limited to detecting the presence of an unauthorized person “by sensing one of heat, motion and sound”. Applicant submits that the cited references fail to teach any such limitation. Moreover, the step of enabling a key-stroke tracking application for tracking occurs after automatically detecting a person. Neither reference provides correspondence to this limitation and the office action does not indicate otherwise. The combined teachings are based on an alleged motivation asserted in the Office Action that these teachings would be made, in “order to monitor the user’s work actions for security purposes”. This alleged motivation does not fit because the claimed invention would monitor the unauthorized person strokes whereas this asserted combination would monitor the authorized workstations’ users. Notwithstanding, there is no evidence that one skilled in the art would make such a combination, especially considering that the ‘924 Yee *et al.* reference is directed specifically to assisting authorized users of the workstation.

With respect to claim 17, it is further distinguishable because it is limited to § 112(6) and because it depends from claim 12 (and also claims 10 and 11) which is also distinguishable based on § 112(6) and the corresponding structures set forth in the specification. As discussed above, the claimed invention is limited to “means for automatically detecting a person” and pursuant to § 112(6), Applicant submits that such

“means” has nothing to do with searching for recognizable faces in a video camera as in the ‘517 patent.

With respect to the double patenting rejection, Applicant would consider submitting a terminal disclaimer should the copending application issue. Until then, Applicant submits that all the rejections have been overcome and therefore requests that this provisional rejection be withdrawn as required by MPEP § 715.

In view of the above discussion, Applicant believes that the rejection has been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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In the Drawings:

With respect to the drawing 3A, reference numerals in coordination with the text clearly identify the circuit components. Attached Fig. 3A provides a slight enhancement to the reference lines between the circuit components of the reference numerals for each of: 325A, 327A, 327B, 327D and 328A. This attached figure attached is a replacement sheet as required at page 2 of the office action. The additional replacement sheet shows the reference line enhancements within circles for identification purposes. Please accept replacement drawings 3A.